

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CARLO LYNN,

Defendant-Appellant.

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UNPUBLISHED  
November 13, 2014

No. 317579  
Wayne Circuit Court  
LC No. 13-003307-FH

Before: WHITBECK, P.J., and FITZGERALD and MURRAY, JJ.

PER CURIAM.

Defendant, Carlo Lynn, appeals as of right his convictions, following a jury trial, of felon in possession of a firearm,<sup>1</sup> carrying a concealed weapon,<sup>2</sup> and possession of a firearm during the commission of a felony.<sup>3</sup> The trial court sentenced Lynn to serve five years' imprisonment for his felony-firearm conviction, two years' probation for his felon-in-possession conviction, and two years' probation for carrying a concealed weapon. We affirm.

**I. FACTS**

Sergeant Andrew Jeanette testified that, on March 28, 2012, he was called to assist in breaking up a fight at an intersection in Detroit. According to Sergeant Jeanette, he and Officer Samuel Pionessa approached a group of people in their marked patrol car. As he got out of his car, he noticed Lynn walking away from the group.

Sergeant Jeanette ordered Lynn to stop, but Lynn ran down a path into the backyard of a nearby home. Sergeant Jeanette lost sight of Lynn for "maybe a second" when Lynn turned into the backyard of the house. As Sergeant Jeanette entered the backyard, he saw Lynn bend over a red and white cooler. Lynn pulled a silver revolver from the front pocket of his sweatshirt and dropped it into the cooler. Lynn turned to face Sergeant Jeanette, and Sergeant Jeanette

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<sup>1</sup> MCL 750.224f.

<sup>2</sup> MCL 750.227.

<sup>3</sup> MCL 750.227b.

handcuffed him. Lynn told Sergeant Jeanette “watch out” and “there’s a dog back here,” but Sergeant Jeanette did not see any dog. Sergeant Jeanette retrieved the gun from the cooler.

Daniel Newby testified that he knows Lynn and was present at the incident. According to Newby, a vicious dog resided in the backyard of the house where Sergeant Jeanette said that Lynn deposited the gun. Newby testified that the dog was always in the back yard.

## II. SUFFICIENCY OF THE EVIDENCE

### A. STANDARD OF REVIEW

A claim that the evidence was insufficient to convict a defendant invokes that defendant’s constitutional right to due process of law.<sup>4</sup> Thus, this Court reviews de novo a defendant’s challenge to the sufficiency of the evidence supporting his or her conviction.<sup>5</sup> We review the evidence in a light most favorable to the prosecutor to determine whether a rational trier of fact could find that the prosecutor proved the crime’s elements beyond a reasonable doubt.<sup>6</sup>

### B. LEGAL STANDARDS

The defendant’s possession of a firearm is an element of both felon in possession and felony-firearm.<sup>7</sup> A defendant is guilty of carrying a concealed weapon if he or she knowingly possesses a concealed weapon.<sup>8</sup> The prosecutor may prove possession by circumstantial or direct evidence.<sup>9</sup>

### C. APPLYING THE STANDARDS

Lynn bases his contention that insufficient evidence supported his conviction on his assertion that Sergeant Jeanette’s testimony was not credible, because no one could have entered the backyard without being mauled by a dog. We disagree.

When reviewing the sufficiency of the evidence, we will not interfere with the trier of fact’s role to determine the credibility of the witnesses.<sup>10</sup> Here, Sergeant Jeanette testified that

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<sup>4</sup> *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748 (1992); *In re Winship*, 397 US 358, 364; 90 S Ct 1068; 25 L Ed 2d 368 (1970).

<sup>5</sup> *People v Meissner*, 294 Mich App 438, 452; 812 NW2d 37 (2011).

<sup>6</sup> *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012).

<sup>7</sup> MCL 750.224f; MCL 750.227b; *People v Peals*, 476 Mich 636, 640; 720 NW2d 196 (2006).

<sup>8</sup> MCL 750.227(2). See *People v Hernandez-Garcia*, 477 Mich 1039, 1039 n 1; 728 NW2d 406 (2007).

<sup>9</sup> *People v Hill*, 433 Mich 464, 469; 446 NW2d 140 (1989).

<sup>10</sup> *Wolfe*, 440 Mich at 514-515; *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008).

he saw Lynn drop a handgun into a cooler. Newby's testimony that there was always a vicious dog in the backyard conflicted with Sergeant Jeanette's testimony that he did not see a dog, but the jury could have found Sergeant Jeanette's testimony that Lynn possessed a gun to be credible. We will not interfere with the jury's credibility determination.

Viewing the evidence in the light most favorable to the prosecutor, we conclude that sufficient evidence supported Lynn's convictions.

We affirm.

/s/ William C. Whitbeck  
/s/ E. Thomas Fitzgerald  
/s/ Christopher M. Murray